

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 2004-00084

MICHAEL A. DEEP,

Plaintiff,

v.

CITY OF NORTH ADAMS, JOHN BARRETT,  
MAYOR, NORTH ADAMS PLANNING)  
BOARD, MICHAEL LEARY, PAUL HOPKINS,  
WILLIAMS SCHRADE, JOSEPH GNIADEK,  
PAUL SENEAL, DAVID BABCOCK, EDNA  
RUDNICK, KYLE HANLON and WAYNE  
WILKINSON as Members of the NORTH ADAMS  
PLANNING BOARD, and KATHERINE EADE,  
ADMINISTRATIVE OFFICER of the CITY OF  
NORTH ADAMS,

MOTION TO AMEND  
AND REMAND

FILED  
CLERK'S OFFICE  
JUN 14 2004  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

Now comes the Plaintiff, Michael A. Deep, by his attorney Fred T. Thompson, and respectfully moves that this Court permit him to amend his complaint pursuant to F.R.C.P. 15 and remand the matter to the Trial Court of the Commonwealth, Superior Court Department, Berkshire, ss.

As to the amendment of the Complaint, Plaintiff requests that his complaint be amended by dismissing without prejudice Counts Two, Three and Four of the Complaint as originally filed, leaving the matter to go forward only as to the original Count One. Further, Plaintiff requests that Count One be amended to include a prayer for interest, costs and reasonable attorney's fees as may be permitted by law, statute or ordered by the Court.

As a result of allowing such amendment, this Court would be without jurisdiction to hear

the remaining matters in the complaint. Therefore, should the Court permit the amendment, Plaintiff further moves that the matter appropriately be remanded to the Courts of the Commonwealth for resolution in a Court of appropriate jurisdiction.

Respectfully submitted,

Michael A. Deep, Plaintiff,

Dated: 6/2/04

By: Fred T. Thompson  
Fred T. Thompson, Esq.  
Attorney for Plaintiffs  
66 Summer Street  
North Adams, MA 01247  
(413) 664-9002  
BBO # 496 680

CERTIFICATE OF SERVICE

I, Fred T. Thompson, Esq., hereby certify that on this 2d day of June, 2004, I served a copy of the above upon the parties in the action by mailing postage prepaid, to counsel Nancy Frankel Pelletier, Esq., Robinson, Donovan, P.C., 1500 Main Street, Suite 1600, Springfield, MA 01115, and by facsimile to her.

Subscribed under the penalties of perjury.

Fred T. Thompson  
Fred T. Thompson, Esq.

This motion is assented to:

Nancy Frankel Pelletier Esq.  
Nancy Frankel Pelletier, Esq.  
Counsel for Defendants

Dated: 6/9/04